

Minnesota-Wisconsin Boundary Area Commission

(LFB Budget Summary Document: Page 383)

No Issue Papers Have Been Prepared

Budget Memo

Agency: Minn-Wis Boundary Area Commission

Staff Recommendations:

No FB Papers have been prepared - no action needed

Comments: There's \$16,800 over the biennium to pay a cost-share portion of a conservation project along the Mississippi River (i.e. see, you support projects all around the state).

MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	GPR Shift to the Conservation Fund
2	Computer Services
3	Mississippi River Stewardship Project
4	Supplies and Salaries Increases

Miscellaneous Appropriations

(LFB Budget Summary Document: Page 385)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Minor Policy and Technical Changes -- Operating Note Interest Cost Estimate (Paper #565)
5	Transfers to the Conservation Fund (see Papers #601 and #605)
6	Aviation Fuel Petroleum Inspection Fee Allowance (see Paper #275)
-	Terminal Tax Distribution (Paper #566)

Agency: Miscellaneous Appropriations

Staff Recommendations:

Paper No. 565: Approve Modification to Bill

Paper No. 566: Approve Modification to Bill

*For items that FB didn't prepare papers on, **no action is needed** to approve the governor's recommendations.*

(note: item 2 changes JFC's review authority over DOA's request to issue new operating notes from a mandatory approval process to a 14-day passive review process. Seems reasonable, but ask Lang what he thinks)

(note 2: item 8 notes that the election campaign fund balance continues to go down - so much for public financing.)

Panzer / George -

Agency: Miscellaneous Appropriations

Staff Recommendations:

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To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE**Minor Policy and Technical Changes -- Operating Note Interest Cost Estimate
(Miscellaneous Appropriations)**

[LFB Summary: Page 385, #1]

GOVERNOR

Increase funding by \$6,300,000 in 1997-98 and \$11,600,000 in 1998-99 for estimated interest costs on operating notes. Total funding would be \$14.3 million in 1997-98 and \$19.6 million in 1998-99.

MODIFICATION TO BILL

Decrease the funding provided in the bill for 1997-98 by \$4,500,000, for total funding of \$9.8 million. This would be an increase of \$1.8 million from the base amount.

Explanation: The funding provided in the bill was based on an estimate that operating notes of \$550 million would be issued in 1997-98 and \$750 million in 1998-99. The Department of Administration has recently submitted its operating note request for the 1997-98 fiscal year. DOA requested authority to issue up to \$450 million in operating notes and it is currently estimated that \$350 million will be issued. The reestimate provided in this paper is based on an operating note of \$350 million as well as a revised estimate of the note's interest rate.

ModificationGPR

1997-99 FUNDING (Change to Bill)

- \$4,500,000

Prepared by: Kelsie Doty

MO# Modifications
in papers 565 and 566

2	BURKE	<input checked="" type="radio"/>	N	A
	DECKER	<input checked="" type="radio"/>	N	A
	GEORGE	<input checked="" type="radio"/>	N	A
	JAUCH	<input checked="" type="radio"/>	N	A
	WINEKE	<input checked="" type="radio"/>	N	A
	SHIBILSKI	<input checked="" type="radio"/>	N	A
	COWLES	<input checked="" type="radio"/>	N	A
	PANZER	<input checked="" type="radio"/>	N	A
	JENSEN	<input checked="" type="radio"/>	N	A
	OURADA	<input checked="" type="radio"/>	N	A
	HARSDORF	<input checked="" type="radio"/>	N	A
	ALBERS	<input checked="" type="radio"/>	N	A
	GARD	<input checked="" type="radio"/>	N	A
	KAUFERT	<input checked="" type="radio"/>	N	A
	LINTON	<input checked="" type="radio"/>	N	A
	COGGS	<input checked="" type="radio"/>	N	A
	AYE	<u>16</u>	NO <u>0</u>	ABS <u>0</u>

To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE**Terminal Tax Distribution (Miscellaneous Appropriations)****GOVERNOR**

Estimate the transfers from the transportation fund for the terminal tax distribution at \$1,162,100 annually. These amounts are equal to the amount estimated for 1996-97 under 1995 Act 27.

MODIFICATION TO BILL

Reestimate the amounts to be transferred at \$914,100 SEG for 1997-98 and \$855,500 SEG for 1998-99.

<u>Modification</u>	<u>SEG</u>
1997-99 REVENUE (Change to Bill)	- \$554,600

Explanation: Terminal tax payments are calculated by multiplying the value of terminal property by the statewide average effective tax rate. Because the value of terminal property has remained stable over the last several years and the statewide average effective tax rate is expected to decrease, lower terminal tax payments should result. The modified estimates were previously reflected in the Bureau's estimated transportation fund condition statement (Paper #810), so recognizing these amounts will not increase the balance relative to the amounts previously reported.

Prepared by: Rick Olin

MO# _____

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE _____ NO _____ ABS _____

MISCELLANEOUS APPROPRIATIONS

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
2	Operating Note Requests -- Joint Committee on Finance 14-Day Passive Review
3	Minnesota-Wisconsin Income Tax Reciprocity Payments
4	Minnesota-Wisconsin Reciprocity Bench Mark -- Standard Budget Adjustment
7	Interest on Overpayment of Taxes
8	Election Campaign Fund Reestimate

Natural Resources

Departmentwide and Administrative Services

(LFB Budget Summary Document: Page 388)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
2	Minor Policy and Technical Changes -- Agency Reorganization (Paper #575)
15	Public Intervenor Support (Paper #576)
18	Vehicle and Equipment Pools (Paper #577)

Budget Memo

Agency: DNR, Dept-Wide & Administration

Staff Recommendations:

Paper No. 575: Alternative A - Approve Modification
Alternative B - Approve Modification

Paper No. 576: Alternative A - 5 & 6 (Public Intervenor)

Comments: Alternatives 5 & 6 together restore the PI to its former status. If this fails, however, we recommend alt 4, which would just delete this bogus incarnation of the PI's office - let's end the charade.

Alternative B - 1

Comments: It's fair to restore the AG's appointments to the Board, if the PI office is kept. (We're not really sure what alt 2 means.) (See page one, second paragraph to support our recommendation for alt b-1)

Paper No. 577: Alternative A - 1
Alternative B - 2

Comments: This seems very arcane to us. We didn't really understand all the different "pool" options. (see paragraphs 8 & 14 for support of our recommendations)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Minor Policy and Technical Changes -- Agency Reorganization (DNR -- Departmentwide and Administrative Services)

[LFB Summary: Page 389, #2]

A. LAND PROGRAM GENERAL OPERATIONS APPROPRIATIONS

Modification to Base

Delete several subappropriation lines within the segregated and federal general program operations appropriations for the Land Division.

Explanation: SB 77 erroneously leaves in subappropriation lines in the Land program appropriations for functions which had been funded under the former Resource Management program but which will be funded from other programs under the reorganization.

B. SOLID AND HAZARDOUS WASTE PROGRAM

Modification to Base

Retain \$45,800 PR annually and 1.0 PR position as brownfields-related program revenues rather than solid waste program revenues under the bill.

Explanation: SB 77 erroneously transfers the funding source for a position from brownfields-related remediated property program revenues to solid and hazardous waste management program revenues when the CAER Division cooperative environmental assistance program is created.

Prepared by: Russ Kava and Kendra Bonderud

MO# Modifications

1 BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input type="radio"/>	N	<input checked="" type="radio"/>
2 JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
JENSEN	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 15 NO 0 ABS 1

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Public Intervenor Support (DNR -- Departmentwide and Administrative Services)

[LFB Summary: Page 395, #15]

CURRENT LAW

The Secretary of the Department of Natural Resources designates an attorney as the Public Intervenor. The Public Intervenor has the authority to intervene in rule-making and other administrative proceedings, at the direction of the Public Intervenor Board, consistent with the duty to protect public rights in water or natural resources. In carrying out these duties, the Public Intervenor may, with the approval of the Public Intervenor Board, initiate actions and proceedings before any agency in order to raise issues, present evidence and testimony and make arguments. The Public Intervenor cannot, however, file or intervene in court actions.

The eight-member Public Intervenor Board, also attached to DNR, is comprised of members appointed for four-year terms. The members have backgrounds or demonstrated experience in natural resource conservation or environmental protection. The members are appointed as follows: (a) two members appointed by the Governor with the advice and consent of the Senate; (b) two members appointed by the Governor without the advice and consent of the Senate (these two members were to be appointed by the Attorney General with Senate confirmation under enrolled AB 150, but the Governor's item veto of Act 27 converted them to gubernatorial appointments); and (c) one member each appointed by the majority and minority leaders of both houses of the Legislature.

GOVERNOR

Provide \$15,000 GPR annually for supplies and services for the Office of the Public Intervenor for reimbursement of expenses of members of the Public Intervenor Board, the hiring of expert assistance and law clerk support.

DISCUSSION POINTS

1. One attorney position and part of the authority of the Office of the Public Intervenor was transferred from the Department of Justice to DNR on September 1, 1995. The current Public Intervenor was appointed to her position in April, 1996. The Public Intervenor Board met for the first time in October, 1996. The Board currently has six members, with the remaining two members having been appointed by the Governor but awaiting Senate confirmation.

2. The Public Intervenor indicates that her primary function to date has been responding to calls for assistance from state residents on various environmental and natural resources issues. She has filed written comments in one administrative rule hearing (on NRs 103, 299 and 504 regarding wetland regulation). She indicates that her current workload is primarily a result of the fact that she did not have a Board to authorize her actions until last October, and that the Board is still in the process of determining the new role of the Public Intervenor. The Public Intervenor indicates that the Board has given preliminary indications that it wishes for her to intervene in administrative proceedings as well as serving in her current ombudsman role.

3. There is currently \$6,800 in base funding for supplies and services for the Public Intervenor. The bill would add \$15,000 annually for three components: (a) \$5,000 for expert assistance; (b) \$5,600 for expenses for Board meetings; and (c) \$4,400 for a law clerk position in the Office.

4. Expert assistance. \$5,000 was recommended by the Governor for hiring expert assistance for those rule-making hearings and administrative proceedings in which the Board chooses to intervene. Such expert assistance could become necessary, particularly if the Board chooses to intervene in relatively complex issues, such as the proposed Crandon mining operation in Forest County.

5. Conversely, by statute, DNR personnel are required to make investigations, studies, and reports as the Public Intervenor may request in connection with administrative proceedings, either before or after a formal intervention. In addition, personnel of state agencies shall, at the Public Intervenor's request, provide information, serve as witnesses in proceedings and otherwise cooperate in the carrying out of the Public Intervenor's duties. Given that the Public Intervenor, by law, could call on virtually any state agency to provide assistance, it could be argued that additional funding for this purpose may not be necessary.

6. Board expenses. The Governor recommended \$5,600 to cover the expenses of the Public Intervenor Board for mileage, lunch, parking and other meeting related expenditures. The \$5,600 recommended would cover costs for six meetings per year for eight members at a rate of \$115 per meeting per person. Based on allowable state reimbursement levels, board meeting costs could be reestimated at \$2,100 annually to allow for five, one-day Board meetings and for one overnight meeting or conference in the state.

7. Law clerk. The Public Intervenor currently shares one support staff position with other attorneys in the Bureau of Legal Services. The Governor also recommended \$4,400 for a law clerk to assist the Public Intervenor in her duties. This would allow the clerk to be paid a salary of \$9.75 per hour (the salary of other law clerks in Bureau of Legal Services in DNR) for approximately eight hours per week. This law clerk position would assist the Public Intervenor with legal research, citizens inquiries and other duties.

8. In the 1995-97 biennial budget, \$353,400 and 3.0 positions (2.0 attorney positions and 1.0 support position) were eliminated from the Department of Justice with 1.0 attorney position and an associated \$6,800 in supplies being transferred to DNR. No funds directly related to Board expenses or legal expenses were deleted from DOJ. If the funding for the current Office of the Public Intervenor is inadequate, it could be argued that insufficient funding was transferred from DOJ in the 1995-97 budget.

9. DOJ officials indicate that expenses relating to the Public Intervenor, which remained in DOJ, totalled approximately \$6,000. This includes \$5,000 in expert witness expenses under DOJ's legal expenses appropriation (case account), and \$1,000 in reimbursement for Board members' meeting costs under DOJ's legal services general operations appropriation. However, funds related to Public Intervenor litigation expenses have been absorbed by other DOJ cases. Case account expenses have exceeded appropriated amounts in the 1995-97 biennium (the appropriation has been supplemented twice in 1996-97, through the s. 13.10 process). Based on current and projected 1997-99 caseload, case account funds would not be available for transfer to DNR. In addition, given legal services supplies and services reductions in the 1995-97 biennium, and additional 1997-99 reductions under the Governor's budget bill, DOJ officials argue that additional funding should not be transferred from DOJ to DNR.

10. Further, issues have been raised regarding continued funding of the Public Intervenor. Some have questioned whether, given the limited statutory authority, the position is necessary. Others argue the position may only be justified if the original authority is restored.

11. Prior to the 1995-97 biennial budget, the Attorney General designated one or more assistant attorneys general within the Department of Justice as Public Intervenor to formally initiate actions and intervene (on the Public Intervenor's own initiative or upon the request of any committee of the Legislature) in proceedings before any state agency or any court for the protection of public rights relating to water and other natural resources. At the Public Intervenor's request, state agencies were required to provide information, serve as witnesses in proceedings

and otherwise cooperate in any intervention. Following formal intervention, the Public Intervenor was deemed a party in interest with full power to present evidence, subpoena or do any other acts appropriate for a party to the proceeding. The Public Intervenor could also challenge administrative rulings in the courts. The Attorney General was also required to appoint a Public Intervenor advisory committee consisting of not less than seven nor more than nine members.

12. When the Public Intervenor was a part of DOJ, the two full-time attorneys who carried out their responsibilities indicated that their primary functions included: (a) responding to calls for assistance from state residents (estimated to take approximately 40% of work time); (b) involvement in hearings and cases relating to issues given a high priority by the citizen advisory committee (40%); and (c) other duties within DOJ, including committee work and legal writing (20%).

13. A number of issues were raised relating to the Public Intervenor in the past and continue to be raised regarding the Office. These include: (a) the need for a Public Intervenor in light of other state and federal environmental regulation; (b) the appropriateness of the state hiring attorneys to sue the state; (c) the nature of the administrative rule making process; (d) the need for an ombudsman position for citizen concerns; and (e) any potential cost savings to be gained from keeping or eliminating the Office.

14. Environmental law. The development of state and federal environmental law has added standards and environmental protection that did not exist at the time the Public Intervenor was created in 1967. Similarly, under these laws, state and federal agencies have specific regulatory and enforcement responsibilities for the protection of the environment. The Public Intervenor's role may be viewed as less important in light of these developments. On the other hand, the placement of regulatory and enforcement responsibilities in state and federal agencies does not in itself guarantee that those responsibilities are carried out. In addition, it could be argued that the implementation and application of these regulations have significant implications for public rights relating to water and other natural resources. Moreover, the complex nature of these laws and their application may have adverse effects on individual state residents. The Intervenor's role in the rule-making process, in monitoring and challenging state agencies and in responding to citizen inquiries and requests for assistance could be viewed as important within the context of current environmental law.

15. Court action. Between 1978 and 1995, the Public Intervenor initiated 15 lawsuits. Each lawsuit typically involved multiple actions, for example, petitions for review, as the case is litigated. Nine suits were filed against DNR, one each against DOT and DILHR and four suits challenged local jurisdictions. The number and types of interventions in other legal actions by the Public Intervenor prior to 1995 is not available. Some argue that the Office of the Public Intervenor should be eliminated or continue in its limited capacity given that it makes little sense for the state to authorize attorneys to bring suit against state agencies. Further, opponents of the Office believe individuals and environmental advocacy groups are sufficiently organized and financed to pursue these actions on their own. On the other hand, proponents argue that these

challenges to state agencies and the associated costs should be assessed in view of the environmental damage and loss of public rights to natural resources that may have been prevented as a result of the suits. Further, some have argued that without the credible threat of legal action, even if seldom exercised, the public intervenor cannot be effective in upholding public rights in water and other natural resources.

16. Rule making process. In some ways, the administrative rule making process could be seen as offering adequate opportunity for citizen input, rendering the current Public Intervenor unnecessary. For example: (a) public hearings are required as part of the process; (b) agencies often utilize advisory committees of concerned groups and citizens in developing administrative rules; and (c) administrative rules are subject to the review of the Legislature. However, the scope of the administrative rules currently being promulgated and the relative complexity of many of the rules and the rule development process could warrant a position devoted to the monitoring of environmental rules as they are being promulgated.

17. Ombudsman role. It could be argued that the Public Intervenor is not necessary if the main function of the position is to serve as an ombudsman for citizen concerns. Given the customer service orientation of the reorganized DNR, this ombudsman function should be carried out by other employees in DNR or other agencies (for example, Commerce's Bureau of Permit and Regulatory Assistance). On the other hand, responding to calls for assistance from state residents was a component (approximately 40%) of the Public Intervenor workload when it was a part of DOJ. The Public Intervenor argues the position can be valuable in assisting citizens in navigating state and federal procedures on a variety of issues (such as quarries, dam removal, DNR permit processes and wetland regulation). She also notes that many citizens who have sought assistance have often been trying for months or even years to resolve complaints.

18. Savings. Approximately \$130,900 GPR (\$56,100 in 1997-98 and \$74,800 in 1998-99) would be realized through the elimination of the Public Intervenor. However, proponents of the office argue that the early intervention of the Public Intervenor in rule-making and/or legal arenas may avert more costly litigation and liability in the future for the state if unconstitutional or illegal actions are implemented by agencies.

19. Particularly, if the Committee chooses to restore the Public Intervenor to DOJ with the authority it had prior to 1995 Act 27, the Board could be provided with the following membership: (a) two members appointed by the Governor with the advice and consent of the Senate; (b) two members appointed by the Attorney General with the advice and consent of the Senate; and (c) one member each appointed by the majority and minority leaders of both houses of the Legislature. Further, if the pre-Act 27 authority is restored to DOJ, the Committee could either: (a) transfer the one existing attorney position in DNR to DOJ; or (b) in addition, 2.0 new positions (one attorney and one legal secretary) could be provided to restore the original staffing level at DOJ.

ALTERNATIVES TO BASE

A. Office of the Public Intervenor

1. Approve the Governor's recommendation, as reestimated, to provide \$11,500 GPR annually for the Office of the Public Intervenor.

<u>Alternative 1</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$23,000
[Change to Bill]	-\$7,000]

2. Provide \$6,500 GPR annually for the Public Intervenor (\$5,000 for expert assistance would not be provided).

<u>Alternative 2</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$13,000
[Change to Bill]	-\$17,000]

3. Transfer \$6,000 annually from DOJ to DNR for the Office of Public Intervenor.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill]	-\$30,000]

4. Delete \$56,100 in 1997-98 and \$74,800 in 1998-99 and 1.0 position annually and eliminate the Office of the Public Intervenor and Board effective October 1, 1997.

<u>Alternative 4</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	- \$130,900
[Change to Bill]	- \$160,900]
1998-99 POSITIONS (Change to Base)	- 1.00
[Change to Bill]	- 1.00]

5. Effective October 1, 1997, shift the Public Intervenor and Board from DNR to DOJ (\$56,100 in 1997-98 and \$74,800 in 1998-99 and 1.0 position and incumbent). Further, restore the authority of the Public Intervenor to that which was held prior to 1995 Act 27. (This

would allow the Attorney General to appoint the Public Intervenor and allow the Public Intervenor to formally intervene in court cases.)

<u>Alternative 5</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill	-\$30,000]

6. In addition to Alternative 5, provide \$60,900 GPR in 1997-98 and \$90,900 GPR in 1998-99 and 2.0 positions in DOJ to restore the former staffing level to DOJ (two attorneys and a legal secretary).

<u>Alternative 6</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$151,800
[Change to Bill	\$121,800
1998-99 POSITIONS (Change to Base)	2.00
[Change to Bill	2.00]

7. Maintain current law.

<u>Alternative 7</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill	-\$30,000]

B. Public Intervenor Board Membership

1. Alter the composition of the Public Intervenor Board effective October 1, 1997, to delete two members appointed by the Governor without the advice and consent of the Senate and provide for two members appointed by the Attorney General with the advice and consent of the Senate.

2. Restore the Public Intervenor Board to its previous advisory capacity.

3. Maintain current law (four members appointed by the Governor, four members appointed by the Legislature, none appointed by the Attorney General).

Prepared by: Russ Kava

Part A (Alt. 5 and 6)
MO#

1 BURKE	(Y)	N	A
2 DECKER	(Y)	N	A
GEORGE	(Y)	N	(A)
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	Y	(N)	A
PANZER	Y	(N)	A
JENSEN	Y	(N)	A
OURADA	Y	(N)	A
HARSDORF	Y	(N)	A
ALBERS	Y	(N)	A
GARD	Y	(N)	A
KAUFERT	Y	(N)	A
LINTON	(Y)	N	A
COGGS	(Y)	N	A

AYE 7 NO 8 ABS 1

MO# Part A (Alt 4)

1 BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	(Y)	N	A
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	Y	(N)	A
PANZER	Y	(N)	A
2 JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	Y	(N)	A
LINTON	Y	(N)	A
COGGS	Y	(N)	A

AYE 11 NO 5 ABS

To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Vehicle and Equipment Pools (DNR -- Departmentwide and Administrative Services)

[LFB Summary: Page 398, #18]

CURRENT LAW

The Department of Natural Resources is provided an account within the conservation fund for intradepartmental moneys received from the car, truck, airplane and heavy equipment pools for the operation, replacement, maintenance and purchase of vehicles and equipment.

GOVERNOR

Add the information technology pool to the list of vehicle and equipment pools from which DNR can spend moneys received from within the Department for the operation, maintenance, replacement and purchase of that equipment. Require DNR to submit a report to the Department of Administration no later than January 1, 1998, detailing the Department's proposed expenditures of these funds necessary to conform to the information technology guidelines established by DOA.

Also, add DNR's vehicle and equipment pool SEG appropriation to the list of specified appropriations from which DNR can expend conservation fund SEG in an amount not exceeding the depreciated value of the vehicles and equipment financed from the pool.

DISCUSSION POINTS

1. The main revenues to the Department's vehicle pool account are: (a) the per mile fee paid when an employee drives a vehicle purchased from the pool; (b) the per hour fee paid when an employee uses a piece of heavy equipment purchased from the pool; and (c) funds raised when DOA auctions used vehicles in the pool that have completed their life cycle. Fees are set to cover equipment and maintenance costs and to generate sufficient revenues to replace items on a periodic basis (generally every three to five years for cars and light trucks and 20 to 25 years for heavy equipment, depending on the usage of the particular machine).

2. The main source of revenue to the radio pool account (typically two-way radios in patrol vehicles) is an annual fee based on the device used (radio or base station). These fees cover the salary of communication technicians, operations, maintenance and replacement costs of individual units as well as the costs of overall radio system replacement on a periodic basis.

3. The main source of revenue to the aircraft pool account is an hourly charge for flights on aircraft leased and maintained by DOA. These revenues are used to pay DOA aircraft lease costs, airplane maintenance done by either DOA or DNR and other supply costs.

4. The following table shows the balances in the pool accounts as of March 31, 1997. The projected balance in the accounts as of June 30, 1997, is also shown.

	Cash Balance <u>March, 1997</u>	Estimated Balance <u>June, 1997</u>
Vehicle	\$2,186,800	\$3,000,000
Radio	1,205,400	1,300,000
Aircraft	<u>-85,000</u>	<u>0</u>
Total	\$3,307,200	\$4,300,000

Equipment Pool Purchases

5. Currently, near the end of June, the DNR Bureau of Finance certifies the amount of money available in the pool for capital equipment replacement for the upcoming fiscal year to the Department's fleet manager. The fleet manager can then place purchase orders in the fall, and the equipment is generally delivered in the winter. DNR may thus only make purchases based on actual revenue in the account at the time of purchase. (These standards do not apply to the aircraft pool, since these purchases are made by DOA.)

6. Under the Governor's recommendation, the Department would be able to spend money from the pool account in an amount not exceeding the depreciated value of equipment financed from the pool. DNR program staff indicate they would manage the vehicle and

equipment pool purchase system to maintain a positive balance in the account at the end of any fiscal year. That is, DNR could place purchase orders and pay for equipment even if the pool account is in deficit during the fiscal year as long as enough revenue is generated during the year to result in the desired positive balance in the pool accounts at the end of the year.

7. The proposed method is currently used for several Department of Transportation and Department of Administration pool accounts. The proposed method of managing the pool accounts is less fiscally conservative and may allow for a smaller margin to provide for equipment in case of any unexpected contingencies.

8. However, DNR staff indicate they have enough historical information and control over purchases to successfully manage the accounts under the proposed system. In addition, the provision would allow for greater flexibility in purchasing. This could allow the Department to more readily take advantage of favorable market conditions as they occur.

Information Technology Pool

9. Revenues and expenditures from the information technology pool account is currently managed and tracked in a separate appropriation. Each DNR Bureau pays a fee for each computer user, which includes network and mainframe operation and maintenance costs, but not for a replacement fund.

10. The Governor's recommendation would add the information technology pool to the other vehicle and equipment pools. DNR program staff indicate that the overall management and tracking of the various pool accounts would not change significantly from current practice.

11. The Governor's recommendation would also allow for the use of the equity in the newly-combined pools (including equity in non-computer related pools) to pay for computers as DNR moves toward compliance with the statewide information technology standards set by DOA. The release of the funding would be contingent upon DOA approval of a report detailing the Department's proposed expenditures of these funds. As part of this report, DNR program staff anticipate detailing how much they intend to spend from the pool accounts and how much will remain for other vehicle and equipment purchases.

12. In other words, the bill would allow the funding of computer purchases from funds generated for the purpose of replacing vehicles, radios and heavy equipment. Therefore, under the bill, money generated for one purpose (vehicle replacement) could be used for another (computers). For example, DNR staff indicate that they have been considering using money in the radio pool to fund a new statewide VHF trunking radio network (under which multiple radio users could connect on the same frequency, unlike the current system where only one pair of users is able to communicate on a single frequency). Whether these funds would ultimately be used for radios or computers would presumably be dealt with as part of DNR's report to DOA.

13. The question of equity among funds within DNR would have to be determined in the report. DNR indicates that the funds contribute to the various pool accounts in the following proportions:

<u>Vehicles</u>		<u>Heavy Equipment</u>		<u>Radio</u>	
Fish and Wildlife	52%	Fish and Wildlife	51%	Fish and Wildlife	40%
Forestry	18	Forestry	31	Forestry	31
Parks	8	Parks	16	Parks	23
Other	<u>22</u>	Other	<u>2</u>	Other	<u>6</u>
Total	100%	Total	100%	Total	100%

DNR would have to determine whether to use pool account funds for computers in proportion to the amount that each fund contributed to the accounts or to propose spending these funds without respect to the fund from which they originated. Further, it could be argued that, if funds are available to purchase computers from the vehicle or radio pools, the charges to the users of these items should instead be reduced to reflect the actual cost of the service provided.

14. Under the Governor's recommendation, the Legislature would have no oversight or input into how these funds are spent. Given the uncertainty of how much money will be spent and in what manner, the Committee could delete this recommendation. The issue could be reconsidered in the future when more detailed information is available. Alternately, the Committee could require DNR to submit the plan for the Committee's consideration, detailing the condition of the pool accounts and proposed rates and expenditures from the pool accounts.

ALTERNATIVES TO BASE

A. Equipment Pool Purchases

1. Approve the Governor's recommendation to allow DNR to expend funds from its vehicle and equipment pool in an amount not exceeding the depreciated value of the vehicles and equipment financed from the pool.

2. Maintain current law.

B. Information Technology Pool

1. Approve the Governor's recommendation to: (a) add the information technology pool to the list of vehicle and equipment pools from which DNR can spend moneys for the operation, maintenance, replacement and purchase of that equipment; and (b) require DNR to submit a

report to DOA no later than January 1, 1998, detailing the Department's expenditures of these funds to conform to the information technology guidelines.

2. Modify the Governor's recommendation by requiring DNR to submit a request for expenditure to DOA and the Joint Committee on Finance for consideration no later than the Committee's third quarterly meeting under s. 13.10 (March, 1998), including: (a) the balances in the Department's vehicle and equipment pools accounts; (b) the Department's proposed expenditures of these funds necessary to conform to the information technology guidelines established; (c) how any one-time expenditure of funds would affect the rates charged for and the long-term solvency of the accounts; (d) any proposed purchases of other equipment that had to be foregone to purchase information technology equipment; and (e) the sources and recipients within the Department of any funding from the pool accounts used to purchase information technology equipment.

3. Maintain current law.

Prepared by: Russ Kava

(A) AIT 1
MO#
(B) AIT 2

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
2 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 15 NO 1 ABS 0

NATURAL RESOURCES

Grandfather Falls Recreation Area

Motion:

Move to direct the Department of Natural Resources to purchase, at a price of up to \$2,138,000, approximately 1,485 acres of land commonly known as the Grandfather Falls Recreation Area in Lincoln County. Direct the expenditures to be made from the existing Warren Knowles-Gaylord Nelson stewardship program allocations notwithstanding the specific authorization for each component.

Note:

This motion would direct the Department of Natural Resources to expend up to \$2,138,000 in stewardship bonding to purchase 1,485 acres in the Grandfather Falls Recreation Area of the Wisconsin River from the Wisconsin Public Service Corporation. The property has an appraised value of \$2,138,000. DNR would choose which components of the stewardship program the purchase would be credited against.

MO#

1529

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
2 OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0

NATURAL RESOURCES

Appraisal and Land Sale Requirements

Motion:

Move to require that the Joint Committee on Finance approve funds through a 14-day passive review process before DNR authorizes appraisals for land owned by a single seller for which the appraisal cost would likely exceed \$3,500.

Prohibit DNR from doing appraisals on property that are not wholly or partially within the boundaries of a master plan for a property approved by the Natural Resources Board.

Require that the value of timber be assessed on every appraisal done by DNR where the property includes marketable timber. In addition, if that timber is subsequently sold, require that the proceeds first be used for any needed improvements to the land or facilities on the property from which the timber is harvested. Remaining proceeds from a timber sale could then be used for other purposes.

Require that any land deemed surplus land by DNR on or after January 1, 1997, must be sold.

Require that, for all land acquired by DNR and later resold, the former owner of the property has first right of refusal at the current appraised value.

Note:

This motion would require Joint Finance to approve DNR appraisals that would exceed \$3,500 in cost. DNR indicates that most appraisals cost under \$1,500.

This motion would also prohibit DNR from appraising land outside of the master plan boundaries for a property. DNR indicates that about 5 out of 6,000 appraisals annually fall in this category. Such cases generally involve railroad grades that become available for trails outside of established boundaries or for purchases with significant environmental or conservation benefit that become available (such as flowages). This motion would require the Natural Resources Board to establish a master plan before any appraisals are done.

Also, DNR would be required to assess the value of timber on every property that includes marketable timber. Currently, the value of timber is separately calculated only for those properties that contain a significant amount of timber. The Department indicates that this occurs on less than 5% of appraisals. Requiring timber appraisals on all properties that contain marketable timber would increase the cost of appraisals, since this would require DNR staff or private appraisers to do the assessments. However, appraisals that more fully consider timber values should be more accurate.

Land is currently deemed as surplus if the Natural Resources Board declares that the land is no longer necessary for conservation purposes.

MO# _____

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE _____ NO _____ ABS _____

NATURAL RESOURCES

Provision of Access to Landlocked Owners

Motion:

Move to require that all state governmental units and any organization that receives government funding via grants or loans provide access to any landowner that is landlocked as a result of the government's or the organization's land purchase.

Note:

This motion would require all state, county, town, municipal and other government units and any organization that receives government funding to allow access to property that becomes landlocked as a result of a land purchase made by that government or organization. This could include providing an easement to the landowner for such purposes.

MO# _____

BURKE	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
DECKER	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
GEORGE	<input type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
JAUCH	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
WINEKE	<input type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
SHIBILSKI	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
COWLES	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
PANZER	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
JENSEN	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
OURADA	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
HARSDORF	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
ALBERS	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
GARD	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
KAUFERT	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
LINTON	<input type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
COGGS	<input type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A

AYE 12 NO 4 ABS _____

MO# ^{LFB} include items
1-19

1 BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
2 JENSEN	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS 0

SET-ASIDE

Senator Decker

NATURAL RESOURCES

Wildlife Damage Claims and Abatement Programs

Motion:

Move to make changes in the wildlife damage claims and abatement programs effective January 1, 1998, as follows.

Make damage caused by turkey, sandhill cranes and coyote eligible under the wildlife damage claims and abatement program.

Require DNR to submit a proposal in each fiscal year to the Joint Committee on Finance for the level of funding to be allocated for wildlife damage claims and abatement. Prohibit the Department from approving any damage claims or abatement measure until Joint Finance has approved the proposal for the fiscal year. Allow DNR to request that Joint Finance amend any allocation of funding for the wildlife damage claims and abatement programs.

Require DNR to promulgate rules for the following related to the wildlife damage claims and abatement programs: (a) eligibility and funding requirements; (b) application forms and procedures; (c) procedures and standards for damage estimates; (d) authorized abatement measures; (e) proration of claims; and (f) audit and inspection procedures.

Require a person submitting a claim to obtain, at the claimant's expense, an estimate of wildlife damage from a certified wildlife damage estimator. Require the applicant to file the claim with DNR on an application form approved by the Department. Require DNR to make the payment based on the amount of damage stated in the claim. Require DNR to establish and maintain a system for certifying wildlife damage estimators. Require DNR to establish training requirements and qualifications for wildlife damage estimators and provide or certify educational programs for this purpose.

Require DNR to approve a claim if: (a) the estimator certifies that crops, apiaries and livestock were managed in accordance with normal agricultural practices; (b) the form, contents and timing of the application comply with DNR requirements; (c) the claim is filed within 14 days after the wildlife damage first occurs; and (d) the claimant accepts wildlife damage abatement measures offered by DNR.

Require DNR to pay wildlife damage claims based on the amount claimed in an application that meets the requirements set by the Department. Require payments to be made no later than

June 1 of the calendar year after the claim is filed. Set the amount of the wildlife damage payment at 80% of the eligible claim amount with a maximum claim of \$25,000. Allow DNR to prorate the payments if funds are insufficient to pay all the claims in any calendar year.

Allow DNR to offer wildlife damage abatement, at DNR expense, to any person owning, leasing or controlling land. DNR would pay 100% of the cost of the abatement measure. Provide that if the person refuses to accept the abatement measures that the person may not claim reimbursement for damages to the crops, apiaries or livestock that would have been subject to the abatement. Provide that a person owning, leasing or controlling land may request the DNR to provide wildlife damage abatement measures. Require the Department to approve only abatement measures that are cost-effective in relation to wildlife damage payments.

Require the person receiving a wildlife damage payment or abatement measure and the wildlife damage estimator to retain all records required by DNR and make them available to DNR for inspection at reasonable times. Allow DNR to enter and inspect at reasonable times any land which is subject to a claim or on which abatement measures are installed. Prohibit people from refusing entry or access to or withhold records from DNR. Prohibit people from obstructing or interfering with a DNR inspection. Require DNR, if requested, to furnish the person a report setting forth all facts found relating to an inspection.

Require DNR to conduct a random audit of claims, payments and abatement measures. Require DNR to conduct an audit of all claims submitted by, payments to or abatement measure installed on property owned, leased or operated by or apiaries or livestock owned by DNR employees or certified wildlife estimators.

Require that if either the wildlife damage estimator or the person receiving a claim or abatement negligently provides erroneous information to DNR, that the estimator and the person receiving a claim or abatement measure to be jointly responsible for: (a) repayment of any money paid to the claimant; (b) payment for the cost of abatement measures installed; and (c) payment for the DNR costs of reviewing and approving the claim or abatement measure and the costs to DNR of investigating the erroneous information. Require that if a person required to keep land open to hunting fails to do so, that the person is responsible for: (a) repayment of any money paid to the claimant; (b) payment for the cost of abatement measures installed; and (c) payment for the DNR costs of reviewing and approving the claim or abatement measure and DNR's costs of investigating the erroneous information.

Provide that if any person fraudulently provides erroneous information to DNR or otherwise commits fraud in relation to the wildlife damage abatement and claims program that (in addition to the payments above) the person is subject to: (a) a mandatory forfeiture equal to twice the amount of the claim or value of the abatement measure; and (b) an additional forfeiture not to exceed \$1,000; (c) revocation or suspension of hunting and fishing privileges of the owner; (d) revocation of the certification of the wildlife damage estimator; and (e) a bar to eligibility for payment under the wildlife damage claims and abatement programs to the person who owns,

leases or controls land or owns livestock or apiaries with respect to which fraud is committed for a period of ten years, whether or not the person was responsible for the fraud.

Require DNR to prepare an annual report summarizing wildlife damage in the state and activity under the wildlife damage program, including: (a) all wildlife damage believed to have occurred in the state; (b) the claims submitted; (c) payment made and abatement measures provided; and (d) the portion of claims submitted that is ineligible for payments or for which funds are not available to make payments. Require DNR to submit the report no later than January 1 of each year to the appropriate standing committees of the Legislature.

Require a person who receives a wildlife damage claim or abatement payment who owns, leases or controls the land to which the claim or abatement payment applies to permit hunting on that land during the appropriate season and on contiguous land under the same ownership, lease or control. Require DNR to determine the acreage of land suitable for hunting. A person who owns, leases or occupies land on which wildlife damage occurs and who does not have the authority to control entry on the land for the purpose of hunting would continue to be eligible for abatement measures and claims payments.

Require DNR to promulgate by rule standards for tolerable levels of damage caused by deer to commercial seedlings, crops on agricultural land, orchard trees or nursery stock. Require DNR to use the rule as a goal in managing the deer herd.

Grant DNR emergency rule-making authority, without the finding of emergency, to implement the program. Require DNR to submit proposed rules to the Legislative Council no later than October 1, 1997.

Note:

The current wildlife damage program pays for 50% of abatement costs and up to \$5,000 in damage costs (after a \$250 deductible) for damage by deer, bear and geese. Under the motion the maximum payment would increase to \$20,000 (80% of \$25,000). A \$1 surcharge (\$2 for a patron license) on most hunting licenses and a \$12 bonus deer permit fee fund the program. In 1995-96 approximately \$3 million in revenue was generated, with expenditures of \$2.6 million. The program had an uncommitted balance of approximately \$2.1 million SEG on July 1, 1996.

This motion would make sandhill crane, turkey and coyote damage eligible under the program. While only limited data is available, it is expected that this would result in claims of approximately \$500,000 annually.

Under this motion, DNR would pay for 100% (rather than 50% currently) of abatement costs. Assuming the level of abatement provided by DNR would remain constant under the motion, an additional \$292,000 would be needed for abatement measures. If DNR would choose

to increase the use of abatement measures, that figure would be greater, with a potential decrease in claims costs.

The county administrative role would be eliminated as part of this motion (landowners would hire certified estimators to assess damage). As a result, \$661,000 would be available for other program purposes.

In 1996, approximately \$3.2 million was spent as part of the wildlife damage claims and abatement programs. Based on the limited data available, it appears that annual expenditures for the wildlife damage claims and abatement programs may increase by approximately 10% as follows.

	1996 Expenditures <u>Under Current Law</u>	Estimated 1996 Expenditures <u>Under Motion</u>
Claims	\$2,217,000	\$2,900,000
Administration	661,000	0
Abatement	<u>292,000</u>	<u>584,000</u>
Total	\$3,170,000	\$3,484,000

The motion would not provide additional funding or positions for DNR to audit claims for fraud, to process claims payments, or for establishing and maintaining the credentialing system for the private wildlife damage estimators. Base resources would be reallocated for these purposes.

NATURAL RESOURCES

Departmentwide and Administrative Services

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
2	Agency Reorganization
3	Unclassified Division Administrators
4	Internal Reallocation
6	Program Revenue Reestimates
7	Segregated Revenue Reestimates
8	Federal Aid Reestimates
9	Statewide Information Technology Standards
10	Rent Increases
11	Administration and Technology Operations Reductions
12	Integrated Science Services Staff Reduction
13	Federal-State Relations Chargebacks
14	Facilities and Lands Operating Budget Reduction
16	Transfers Between Programs and Subprograms
19	Repeal Indirect Cost Reimbursement Appropriation

LFB Summary Item to be Addressed in a Subsequent Paper

<u>Item #</u>	<u>Title</u>
5	Debt Service Reestimate

LFB Summary Item for Introduction as Separate Legislation

<u>Item #</u>	<u>Title</u>
17	Denial of Licenses for Child Support and Tax Delinquency